

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

WHITE SANDS FEDERAL CREDIT UNION,

Plaintiff,

v.

Case No. 2:23-cv-00966-KG-GBW

DAVID DANIEL, in his capacity as Personal
Representative of the Estate of Michael B. Evins,
MELISSA J. REEVES-EVINS, and AUDREY EVINS,

Defendants,

and

DAVID DANIEL,

Defendant/Cross-Claimant,

v.

MELISSA J. REEVES-EVINS AND AUDREY EVINS,

Defendants/Cross-Claimant Defendants.

HEATHER JOHNSON AND KYLE EVINS,

Defendants-in-Intervention/Cross-Claimants-in-Intervention/Cross-Claimant-
Defendants-in-Intervention,

v.

DAVID DANIEL, in his capacity as Personal
Representative of the Estate of Michael B. Evins,
MELISSA J. REEVES-EVINS,

Defendants/Cross-Claimants/Cross-Claimants-in-Intervention

**STIPULATED ORDER GRANTING JOINT MOTION TO DISMISS WITH
PREJUDICE**

THIS MATTER having come before the Court upon the Parties' Joint Motion to Dismiss with Prejudice, and the Court having considered the Motion, hereby FINDS that the Motion should be GRANTED.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

1. This matter concerns certain funds that are part of a retirement plan administered pursuant to 29 U.S.C. §§ 1001 *et seq.*, also known as the Employment Retirement Income Security Act of 1974 ("ERISA"). Michael B. Evins was an employee of Plaintiff for many years prior to his death and owned the retirement plan (the "Evins 401(k)") through his employment with Plaintiff. Plaintiff is currently holding the Evins 401(k) funds at issue. In this matter, the parties disputed how the funds in the Evins 401(k) were to be distributed.

2. Of the amount currently held by Plaintiff in the Evins 401(k):

- a. Martin & Lutz, P.C., Counsel for Plaintiff, is to receive payment of its attorneys' fees and costs from that account, in the amount of \$4,709.63;

- b. David Daniel, Personal Representative of the Estate of Michael B. Evins is to receive \$4,000 from that account for reimbursement of attorneys' fees and costs;
- c. Melissa J. Reeves-Evins is to receive 45% of the remaining balance of the account. The amounts to be received by Ms. Reeves-Evins is to occur in a method of her choosing and as allowed by any applicable law in consideration of tax implications, including such as via direct rollover into IRAs and/or inherited 401(k)s, and/or distribution over a time period as allowed by any applicable law, and/or via other methods, with her to work with Plaintiff on receipt of the amount after this order is entered.;
- d. Heather Johnson and Kyle Evins are to receive 55% of the remaining balance of the account, with Heather Johnson to receive 27.5% and Kyle Evins to receive 27.5%. The respective amounts to be received by Ms. Johnson and Mr. Evins is to occur in a method of their respective choosing and as allowed by any applicable law in consideration of tax implications, including such as via direct rollovers into IRAs but not inherited 401(k)s, and/or distribution over a time period as allowed by any applicable law, and/or via other methods, with each of them to work with Plaintiff on receipt of the respective amounts after this order is entered.

3. This matter regarding the Evins 401(k) is hereby dismissed with prejudice.

Except as otherwise explicitly stated above, the parties are to bear their own attorney's fees and costs in this matter.


CHIEF UNITED STATES DISTRICT JUDGE

Respectfully submitted,

**JENNINGS HAUG KELEHER McLEOD
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By: /s/ Cassandra R. Malone

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APPROVED BY:

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